

MEETING NOTES

TASK GROUP 1

Green Tree Inn, Victorville, CA

Meeting - March 20, 2000

Task Group Members Present:

Ileene Anderson, Margie Balfour, Ray Bransfield, Marie Brashear, Michael Brown, Mike Conner, Jay Corbin, Paul Coridon, Jeri Ferguson, Shirley Hibbetts, Gerry Hillier, Grant Jensen, Becky Jones, Paul Kober, Darly Koutnik, Gene Kulesza, Mary Lewis, Steve Lilburn, Lorelei Oviatt, Bob Parker, Mickey Quillman, Bob Rudnick, Patricia Smith, Bill Standred, Bob Strub, Barbara Veale, Ed Waldheim, Ric Williams

Others Present:

Bill Haigh, Project Leader, Ed LaRue, Chuck Bell, Valery Pilmer - West Mojave Planning team; Dennis Rempel, Facilitator; Lori Diggins, Assistant

Review of Meeting Notes

The draft meeting notes from the February 14, 2000 meeting were distributed and participants were asked to indicate needed modifications. Two comments were noted and will be reflected in the final notes:

- The notes do not mention Hillier's request for the boundaries of the proposed Ft. Irwin expansion to be on the maps. (Staff will add to the maps)
- Area "G" – California City has 30,000 lots designated for residential expansion, not simply a parcel map for this area.

Report by West Mojave Planning Team of Jurisdiction Visits

Planning team staff reported on meetings conducted with individual cities and counties between February 16th and March 15th. Staff distributed a summary of the key points covered in the meetings and reported briefly on the meetings held and noted the meetings still upcoming.

Staff indicated that discussions with cities focused on two topics: 1) identifying areas of proposed or anticipated development in the jurisdictions over the next 30 years and 2) identifying areas where tortoises are known or suspected to be absent. The meetings also helped staff validate the information on current developed areas noted in the database and aerial photos. Discussions with counties focused on defining areas outside the DWMAs that would be considered incidental take areas under the proposed three-tiered system: DWMAs, Managed Use Areas, and Impacted Habitat Areas, and on identifying any "no survey" zones in unincorporated areas. Staff indicated that information from both cities and counties was needed to give the California Department of Fish and Game (CDFG) an estimate of the extent of habitat loss under the HCP as well as prepare a plan that could accommodate cities' need to grow and offer some predictability for development.

Notes on the meetings are listed below:

- San Bernardino County – Generally feels that the areas outside the DWMA should be available for development (no managed use areas).
- California City – Portion of the City is located within proposed DWMA boundaries. City representative said the City might be willing to accept the designation if they are successful in annexing 21 sq. miles south of the City. The area inside the DWMA is already divided into lots that are approved under ministerial process. It was noted that the proposed HCP reserve design would benefit by the addition of the City property in the DWMA, because it would provide a broader corridor for tortoise movement.
- Apple Valley – Few places where tortoises have been found, although the northern third could support tortoises. This suggests that different requirements might be appropriate for different parts of the city, e.g., surveys or fees required in some areas and not in other “write-off” areas.
- Hesperia – No tortoises observed, but other species might need to be considered. The City is considering if they need an independent HCP for other species and exploring if the WMHCP will benefit the City.
- Victorville – In 1995, the City asked the U.S Fish and Wildlife Service (FWS) if it could avoid requiring surveys in areas where tortoises were thought to be absent. FWS said “probably”, but the city could be liable for tortoise loss if it occurred.
- Palmdale/Lancaster – No live tortoises noted in past 10 years in project areas, but three carcasses have been found. The main issue here is Mohave ground squirrel.
- Twentynine Palms (meeting not yet held) – Expected issue is that the proposed DWMA boundaries cross the City limits in the SE (6 sq mi.). Some of this land is private, some BLM. One option is to eliminate the 2 sq. mi of private land from the DWMA.

Meetings are still to be scheduled for Barstow, Yucca Valley, and Twentynine Palms. The planning team proposes also to meet with representatives of mining interests, the Building and Industry Association, and utilities.

Staff noted several other issues rose during the discussions:

- Infill areas and already developed areas should not be considered lost as a result of the HCP.
- How to define the incidental take areas – by the number of tortoises or number of acres?
- Cities might have multiple options for requirements – Areas with no tortoises - no survey, no fee. Survey, fee, or other restrictions in other areas.

Discussion on the presentation included the following issues and comments:

- Don’t neglect other species. Plan and DWMA must address species besides tortoise.
- Jurisdiction discussions did not cover ground squirrel or other species, would similar meetings be required later for these species? (Staff – Limited discussion of ground squirrel in some meetings, but likely would need to have additional meetings to cover all species)

- Issue of who pays fees when development areas have been designated already.
- Issue of nexus regarding fees – can't charge fee if project is not causing impact. Fee can't be a tax.
- Is enough acreage designated for DWMAs to satisfy CDFG that the tortoise is protected? If DWMAs are inadequate, boundaries will have to be redrawn later.
- Request for size comparison of "known developed" areas in cities compared to "expected/proposed development". How much is gone now or likely to be lost.
- Fees structuring is handled in another task group.
- Should plan be simple (broad-based involvement) or complex (impact areas only)?
- The group would like to see the number of acres proposed for different uses. Staff – 18% for DWMAs.
- Focus should be on drawing lines to support conservation, not designating incidental take areas.
- What is the purpose of Managed Use Areas – buffer? Could be long-term protection.

Discussion of Three-Tier Incidental Take Concept

Some discussion following the presentation on jurisdiction meetings focused on the three-tier incidental take concept proposed in the Evaluation Report. Staff indicated that the concept was developed as a way to ensure that the reserve areas are sufficient to mitigate expected loss over 30 years and control the maximum amount of take. The concept provides for development caps as follows:

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|-------------------------|-------------------------------------|
| • DWMAs | Maximum development – 1% of acreage |
| • MUAs | Maximum development – 5% |
| • Incidental Take Areas | Maximum development – 100% |

Group members discussed the three-tier concept and made the following comments:

- Plan should incorporate mining as a resource – plan for future need to mine
- Would multi-species habitat be given higher value for protection?
- Will this proposal meet conservation goals? Percentage of land developed doesn't matter if what's left isn't enough to ensure recovery.
- Will caps be counter-productive – encourage early development to avoid bumping up against cap?
- If there are only two tiers, then prefer no development in DWMAs, not even 1%.
- CDFG and FWS need assurance of recovery plan – need biological or land protection goal
- DWMAs are unique – development thresholds might need to be tailored to individual DWMAs; some might need higher level of protection
- If all areas outside of the DWMAs were slated for development they would likely need to be larger.
- If MUA were eliminated surveys might still be required. For example where new utility corridors might be constructed or other forms of large developments: e.g. malls, housing, etc.

Discussion of Three-Tier Concept vs. Two-Tier Concept

As an alternative the group also discussed a two-tier system, areas within the reserves and those outside. The plan would include an estimate of the amount of take based on the best projections of cities, counties, and SCAG of expected development, and considering past development trends. A comparison of the three-tier and two-tier concepts is shown below.

Three-Tier

3 zones – DWMAs, MUA, and IT
IT could be sub-divided into survey
and non-survey areas
% caps on development
Amount of take defined quantitatively
by % caps on development

Two-Tier

2 zones – DWMAs and IT
IT could be sub-divided into survey
and non-survey areas
Could have % development cap on DWMA
Amount of take defined qualitatively -
“Likely” take estimated from zoning/SCAG data/
economic forecasts and past development trends

Group members agreed that **the planning team and CDFG Sacramento should meet and discuss this option**. Bill agreed to contact CDFG ASAP for their reaction to the two-tier proposal. The following additional comments were made:

- The California Endangered Species Act’s standard differs from the federal Endangered Species Act – under CESA, must “minimize and fully mitigate” impacts compared to FESA’s “minimize and mitigate to the maximum extent practicable”.
- Two-tier can give estimate of take, just not certainty
- Difficult to estimate growth – past SCAG and county data have not been reliable.
- DWMAs need a greater level of protection than other areas, including stricter restrictions on development
- Still need to define prescriptions for incidental take areas – part of management plan
- Will FWS have to authorize the acres of take? FWS – Acreage is not important if the plan ensures survival and recovery.
- Two-tier approach would necessitate larger DWMAs to accommodate the loss of the buffer provided by the MUA.

Next Meeting

The next meeting was set for Monday, April 24, 2000 at 9:30 a.m. at the Victorville Green Tree Inn. Items to be discussed include:

- DWMA prescriptions – ranking of most important topics for future discussions
- Reporting on other species – impacts on currently proposed DWMA boundaries
 - Plants – data available in April
 - Small mammals, birds, reptiles – data available now
 - M. ground squirrel – data available in 1-2 weeks

